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what is jail diversion?

Background

The GAINS Center estimates approximately 800,000 persons with serious mental illness are admitted annually to U.S. jails. Moreover, among these admissions, the preponderance (72 percent) also meet criteria for co-occurring substance use disorders. As community-based mental health services have failed to keep pace with, law enforcement departments and jails have become de facto service providers to persons with co-occurring disorders.

Over the past two decades, jail diversion programs have emerged as a viable and humane solution to the criminalization and inappropriate criminal detention of individuals with mental disorders. Diverting appropriate individuals from jail to community-based mental health treatment has been heralded for its potential benefits to the criminal justice system, the community and the diverted individual.

Definition

The term "jail diversion" refers to programs that divert individuals with serious mental illness (and often co-occurring substance use disorders) away from jail and provide linkages to community-based treatment and support services. The individual thus avoids arrest or spends a significantly reduced time period in jail and/or lockups on the current charge or on violations of probation resulting from previous charges.

Key jail diversion program activities include (Steadman, et al, 1995; Steadman, et al, 2001):

1. Defining a target group for diversion,
2. Identifying individuals as early as possible in their processing by the justice system,
3. Negotiating community-based treatment alternatives to incarceration, and
4. Implementing linkages to comprehensive systems of care and appropriate community supervision consistent with the disposition of the criminal justice contact.

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While all diversion programs engage in some form of identification and linkage, there is no definitive model for organizing a jail diversion program. Different jail diversion strategies are needed because local criminal justice systems vary so much in size, structural characteristics, levels of perceived need, resources available within the communities' mental health and substance abuse services network, and local politics and economics (Morris and Steadman, 1994).

Differing Perceptions of Diversion

To properly understand the policy debates around diversion, it is important to recognize that the term "diversion" is often used differently by criminal justice and mental health professionals. These differing definitions often complicate cross-systems collaboration.

For many criminal justice professionals diversion usually means either not filing or dropping charges in exchange for voluntary agreement to participate in some type of community-based programs. Under this arrangement, there is no continuing criminal justice supervision while the person completes the program as the prosecutor and the criminal court rescind any control over the case. A

notable exception is specialty courts (e.g. drug courts and mental health courts where continuous judicial supervision is a key program element).

For mental health professionals, diversion is used to include any alternative to incarceration that involves community-based treatment. The alternatives may be voluntary or involuntary, that is, they may involve continuing criminal justice supervision while criminal charges or sentence are continued or held in abeyance for a specified period during which the client must meet the terms and conditions of treatment. Accordingly, options for diversion would include: (1) treatment as a condition of bail; (2) deferred prosecution; (3) deferred sentencing; and (4) pleading guilty with treatment as a condition of probation. With the broader concept of diversion, there is often much more willingness by prosecutors and the courts because they retain jurisdiction and help insure that the treatment expected is actually received.

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